

(Secs. 2-5.)

BOMBAY ACT No. VIII OF 1866 [°].

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 7th June, 1866.)

An Act to regulate and restrict the sale of poisons in the Bombay Presidency.

Preamble.

WHEREAS it is expedient to enact one general law relating to the sale of poisonous drugs and deleterious substances in the Bombay Presidency, and to regulate and restrict the sale of such drugs and substances; It is enacted as follows :—

Interpretation-clause.

1.—[*Repeal of enactments.*] Repealed by Act XII of 1873.

2. The following words and expressions in this Act shall have the meanings hereby assigned to them, that is to say [b]—

the word “poison” denotes the poisonous drugs and deleterious substances specified in Schedule A [b]:

the word “offender” shall include an incorporated association of persons:

the word “Magistrate” denotes, in places within the present local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, a Magistrate of Police, and in places beyond those local limits a person invested with the powers of a Magistrate under [c] the Code of Criminal X of 1882. Procedure, 1882 [b].

Sellers of poisons to be licensed.

3. [a] No person shall sell any of the poisons specified in [e] Schedule A [b] without holding a license of one or other class as hereinafter provided.

Licenses granted in Bombay by Municipal Commissioner, and in mofussil by Collector.

4. Every license under this Act shall, within the present local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, be granted by the Municipal Commissioner for the city of Bombay, or by some person authorized by him on that behalf, and in places beyond those local limits by the Collector, or by some person authorized by him on that behalf;

Form of licenses.

and every such license may be in the form contained in [e] Schedule B [b], but no license shall authorize a sale except at some place within the limits of the jurisdiction of the officer empowered to grant and granting the same.

Licenses to be of two classes.

5. Licenses shall be of two classes, that is to say, an ordinary license for which a fee of five rupees shall be paid, and a special license for which a fee of fifty rupees shall be paid.

[°] Bom. Act VIII of 1866 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Province of Sindh—see Appendix to Vol. I of this Code, p. xxxiii.

[b] Portion repealed by Bom. Act III of 1886 is omitted.

[c] The reference to Act XXV of 1861 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified to 15th December, 1888, published by the Legislative Department.)

[d] Words repealed by Act XII of 1873 are omitted.

[e] The word repealed by Act XVI of 1895 is omitted.

(Secs. 6-10.)

Provided that a person applying for a license under this Act shall not have the option of taking out a special license in lieu of an ordinary license, but it shall be discretionary with the Commissioner or Collector, as the case may be, to determine whether he will grant a special license to the party applying for the same.

6. Every license shall have effect and continue in force from the date of the grant thereof until the thirty-first day of December next ensuing, but any person to whom such license shall be granted after the first day of July of any year shall pay only one-half of the fee payable for the same, having regard to the class to which it belongs.

7. Every person to whom an ordinary license shall have been granted and who shall be desirous of continuing to sell any of the poisons specified in Schedule A after the expiration of the said license shall, before its expiration, take out a fresh license for that purpose for the following year, and shall in like manner renew the same from year to year, so long as he shall desire to continue to sell such poisons, and upon each renewal of the license shall pay to the officer granting the same a further fee of five rupees.

8. The Commissioner or Collector, as the case may be, may in his discretion grant a fresh special license to any person to whom a special license shall have been granted under this Act, and who shall be desirous of continuing to sell any of the poisons specified in Schedule A after the expiration of such license, and may also renew the special license from year to year so long as the applicant shall desire to continue to sell such poisons, and as often as the Commissioner or Collector shall in his discretion think fit to renew the same: Provided that the application for the grant of a fresh special license or for a renewal of the same be made before the expiration of the current license, and that upon each fresh grant and renewal the applicant shall pay to the officer granting the same a further fee of fifty rupees.

9. Where the person taking out a license under this Act shall be the member of a firm or of an incorporated company, it shall not be necessary that any other member of the firm or company shall take out a license to authorize a sale by such firm or company of the poisons specified in Schedule A within the local limits of the jurisdiction of the officer granting such license.

10. The expenses incurred in carrying out the provisions of this Act in regard to the grant and renewal of licenses shall be paid from the proceeds of the fees, fines and penalties levied under this Act, and the portion of such proceeds remaining after the payment of the said expenses shall, within the present local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, be paid annually to the credit of the municipal fund

License-fees.

Duration of licenses.

Fee for license granted in second half of year.

Renewal of ordinary license.

Renewal of special license.

License for firm sufficient if taken out by one member.

Appropriation of license-fees and fines.

of the city of Bombay, and in places beyond those local limits the balance remaining shall be paid, as to the Collector may seem fit, to the credit of some municipal or local fund of the district for which the licenses issue and the fines and penalties are levied ^[a]; and the portions so paid shall be available to meet the general expenses chargeable to the said municipal or local funds.

Penalty for
selling poisons
without
license.

11. If any person who is by this Act required to take out a license or renew the same shall sell any of the poisons specified in Schedule A without having duly taken out a license or renewed the same, in accordance with the provisions of this Act, he shall be liable, on conviction before a Magistrate, to be punished for a first offence with fine which may extend to two hundred rupees, and for a second or subsequent offence with fine which may extend to five hundred rupees, or with simple imprisonment for a term which may extend to one year, or with both.

Penalty for
refusing to
produce
license when
required.

12. Any person required by this Act to take out a license, who shall without reasonable excuse neglect or refuse to produce and show his license when required to do so by an officer duly empowered in writing by the Municipal Commissioner or by the Collector, as the case may be, to make such requisition, shall, on conviction before a Magistrate, be liable to a penalty not exceeding one hundred rupees.

On every sale
of poison,
particulars to
be entered in
book by seller,
in form in
Schedule C.

13. Every person who shall sell any of the poisons specified in Schedule A shall forthwith, and before the delivery of such poison to the purchaser, enter or cause to be entered, in a fair and regular manner, in a book to be kept by such person for that purpose, in the form set forth in ^[b] Schedule C ^[c], or to the like effect,

a statement of such sale, with the name of the poison and quantity thereof so sold, and the purpose for which such poison is required, or stated to be required, and

the day of the month and year of the sale, and the name, place of abode and condition or occupation of the purchaser,

into all which circumstances the person selling such poison is hereby required and authorized to inquire of the purchaser, before the delivery to such purchaser of the poison sold;

and such entries shall in every case be signed by the person making the same, and shall also be signed by the purchaser, unless such purchaser profess to be unable to write (in which case the person making the entries hereby required shall add to the particulars to be entered in relation to such sale the

^[a] As to crediting of fees, fines and penalties levied under this Act to the Local Fund constituted by Bom. Act I of 1884, see s. 44 (e) of the latter Act, printed in Vol. III of this Code.

^[b] The word repealed by Act XVI of 1895 is omitted.

^[c] Words repealed by Bom. Act III of 1886 are omitted.

(Secs. 14-18.)

words "cannot write,") and, where a witness is hereby required to the sale, such entries shall also be signed by such witness, who shall add his place of abode.

14. No person shall sell any of the poisons specified in Schedule A to any person who is unknown to the person selling such poison, unless the sale be made in the presence of a witness who is known to the person selling the poison, and to whom the purchaser is known, and who signs his name, together with his place of abode, to such entries, before the delivery of the poison to the purchaser.

Restrictions
as to sale of
poisons.

15. When the purchaser of any of the poisons specified in Schedule A is absent at the time of sale, it shall be lawful for the holder of a special license under this Act to sell and deliver any of the said poisons in pursuance of the written order of a purchaser, provided such order is received by the special licensee in the ordinary course of business, and is signed by the purchaser, and provided that the handwriting of the purchaser who signs such order is known to the special licensee, and upon every sale under this section the special licensee shall forthwith enter or cause to be entered in a book to be kept by him for the purpose a statement of such sale, with the name of the poison and quantity thereof so sold and the date of sale, and the name and address of the purchaser in pursuance of whose written order the sale is made, and such entries shall in every case be signed by the person making the same.

Sale of
poisons by
special license
to absent
purchasers.

16. No person shall sell poison to any one who the seller in good faith believes is below the age of eighteen years.

Poison not
to be sold to
minor.

17. No person shall sell any white arsenic in a ground or pounded state unless the same be, before the sale thereof, mixed with soot, indigo or Prussian blue, in the proportion of one ounce of soot or half an ounce of indigo or Prussian blue, at the least, to one pound of the arsenic, and so in proportion for any greater or less quantity:

Provision for
colouring
arsenic.

Provided always that where such arsenic is stated by the purchaser to be required, not for use in agriculture, but for some other purpose, for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold without such admixture in a quantity of not less than two pounds at any one time.

18. If any person shall sell any of the poisons specified in Schedule A in contravention of any of the provisions of sections 13, 14, 15, 16 or 17 [a],

Penalty for
certain
offences

or

if any person purchasing any poison shall give false information to the

[a]. Words repealed by Bom. Act III of 1886 are omitted.

(Secs. 19-20.)

person selling the same in relation to any of the particulars which such last-mentioned person is authorized to enquire into of such purchaser, or

if any person shall sign his name as a witness to a sale of poison to a person unknown to the person so signing as witness,

every person so offending shall, for every such offence, upon conviction for the same before a Magistrate, be liable to a penalty not exceeding two hundred rupees, and, where the person so convicted shall hold a license under this Act, he shall also be liable, by order of the Magistrate, to the forfeiture of his license for the current year.

Act not to prevent sale of poisons in medicine under medical prescription, or wholesale dealing in poisons.

19. Provided that nothing contained in sections 13, [14, 15, 16 or 17 [*]] shall be construed to apply to the sale of any poison

when the same is required as medicine according to the written order or prescription of any person who shall be a graduate of medicine in any University, or who shall have obtained the diploma of any public medical examining body, or who holds or has at any time held the appointment of Apothecary under Government, or

upon the personal application of a person known to the seller to be in good repute and practising medicine,

nor to apply to the sale of any poison when the same forms the whole or part of the ingredients of any medicine required to be made up or compounded according to the prescription or upon the personal application of any of the persons in this section above specified,

nor to apply to the sale of poisons by wholesale to retail-dealers upon orders in writing in the ordinary course of wholesale dealing.

Levy of fines.

20. All fines and penalties imposed by a Magistrate under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate.

Order for detention on issue of distress-warrant.

When a warrant of distress is issued, the Magistrate may order the offender to be detained and kept in safe custody, until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day being not more than eight days from the time of taking such recognizance;

When Magistrate may refrain from issuing distress-warrant.

but if, before issuing such warrant of distress, it shall appear to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress;

[*] Words repealed by Bom. Act III of 1886 are omitted.

(Sec. 21. Schedule A.—Vegetable Poisons)

and in such case, or if such warrant shall have been issued, and upon the return thereof, such insufficiency as aforesaid shall be made to appear to the Magistrate, he shall, by warrant, commit the offender to gaol, there to suffer simple imprisonment for any term not exceeding two months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months where the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount of the fine or penalty.

Commitment to gaol.

21. This Act shall not come into operation in any place in the Bombay Presidency except within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay and the places subject to the general Regulations in force in the Presidency; until it shall be extended thereto by an order of the Governor in Council, to be notified in the Government Gazette;

Extent.

and it shall be lawful for the Governor in Council, in so extending this Act, to declare by whom the duties assigned by this Act to the Collector shall be performed, and by whom fines and penalties under this Act shall be inflicted in the place to which the Act shall be so extended, and to direct the manner in which the proceeds of the fees, fines and penalties levied under this Act in such place shall be appropriated and expended, and further, by any subsequent order, to suspend, alter or revoke any order passed under this section, provided such suspension, alteration or revocation is made before this Act has by virtue of any prior order come in force in such place.

Power to declare, in extending Act, by whom duties to be performed, etc.

22.—[Commencement of Act.] Repealed by Act XII of 1873.

SCHEDULE A.

(Referred to in section 3.)

VEGETABLE POISONS.

Name of poison.	Native name.
Aconite	Bachnág.
Cocculus Indicus	Kákmarí, Kákphúl.
Datura	Dhatúrá.
Henbane	Khorásání Ajwán.
Nux-vomica	Kuchlá and Kajra.
Saint Ignatius' Bean	Papíta.
Calabar Bean.	

(Schedule A.—Mineral Poisons. Schedule B.—Form of Ordinary (or Special) License for the Sale of Poisonous Substances. Schedule C.—Form of Entry of Sale of Poison.)

MINERAL POISONS.

Name of poison.	Native name.
White Arsenic	{ Phatkya Sammul.
Red Arsenic (Realgar)	{ Sammul.
Yellow Arsenic (Orpiment)	{ Mansl.
Scheele's Green (Arsenite of copper)	{ Hartál.
Schweinfurth Green (Aceto-arsenite of copper)	{ Hirwá.
Corrosive Sublimate	{ Raskapúr.

SCHEDULE B.

(Referred to in section 4.)

FORM OF ORDINARY (or SPECIAL, as the case may be) LICENSE FOR THE SALE OF POISONOUS SUBSTANCES (to be in English or a Vernacular language).

I, A. B., hereby grant an ordinary (or special, as the case may be) license to C. D. (name of person or company), to sell, within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay or the District of (as the case may be), from the date hereof to the thirty-first December next, the poisonous substances specified in Bombay Act No. VIII of 1866. The said C. D. will conform to the rules contained in the said Act, on failure whereof this license shall be liable to be forfeited.

(Signed) A. B.,

Municipal Commissioner (or Collector).

Office,

SCHEDULE C.

(Referred to in section 13.)

FORM OF ENTRY OF SALE OF POISON (to be in English or a Vernacular language).

Date of sale.	Name and surname of purchaser.	Purchaser's place of abode.	Condition or occupation.	Poison sold.	Quantity sold.	Purpose for which required or stated to be required.

Purchaser's signature, or, if purchaser cannot write, his mark to be put for him, and the words "cannot write" added.

Witness' signature and place of abode.

Seller's signature.

BOMBAY ACT No. XII of 1866.

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SCHEDULE.

BOMBAY ACT No. XII of 1866.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 11th July, 1866.*)

An Act to declare the constitution of Courts of Civil and Criminal
Judicature in the Province of Sindh.

WHEREAS it is expedient to declare by law the constitution of the Courts of civil and criminal judicature in the Province of Sindh, and to provide for the due administration of justice therein ; It is declared and enacted as follows :—

1. There shall be in the Province of Sindh a Sadr Court, which shall be the highest Court of appeal in civil and criminal matters in the said Province,